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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/863,586

05/16/2001

Kenneth C. Leighley

35669/148330

9880

23973

7590

04/26/2004

DRINKER BIDDLE & REATH
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

JOHNSTON, PHILLIP A

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,586

Applicant(s)

LEIGHLEY ET AL.

Examiner

Phillip A Johnston

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This Office Action is submitted in response to RCE / Amendment dated 4-07-2004, wherein claims 1-8, and 10-25 are pending.

Claims Rejection – 35 U.S.C. 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

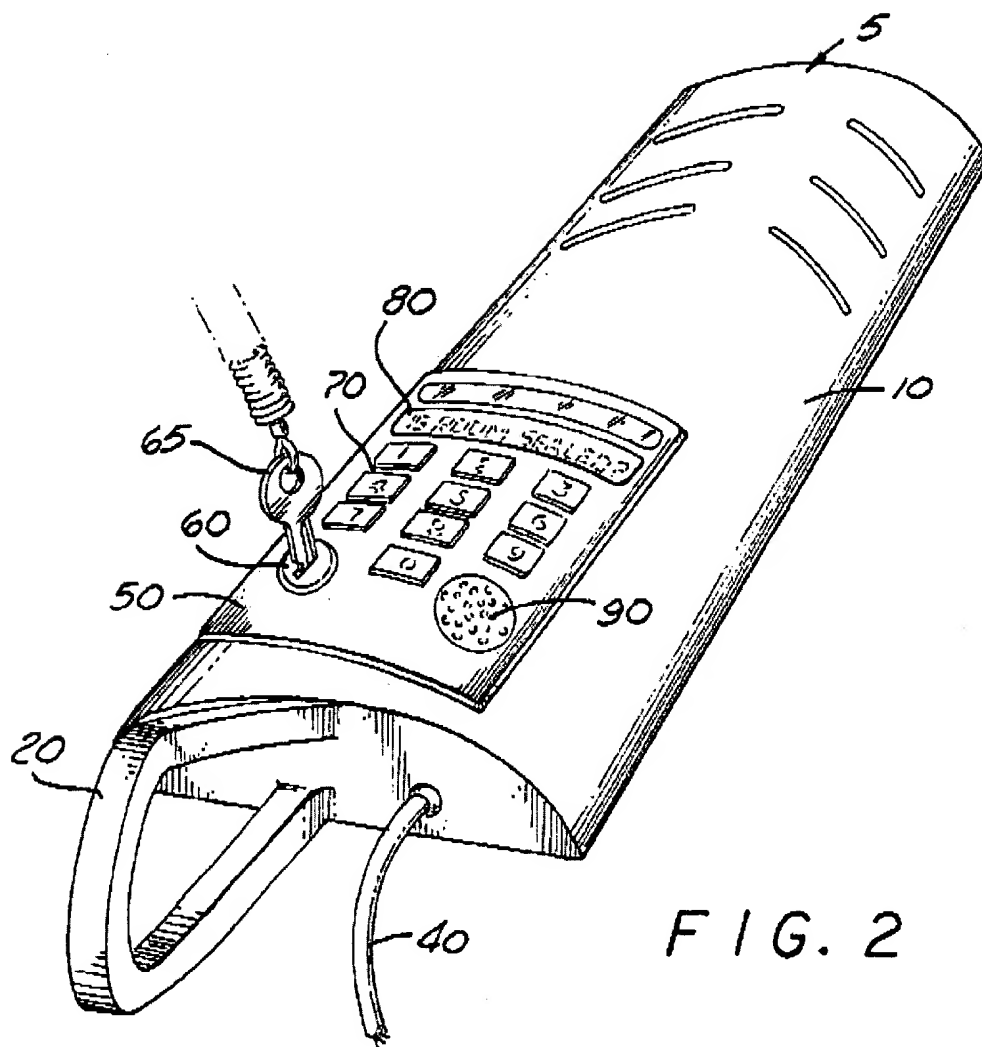
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3,12,13, and 16-18, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,920,075 to Whitehead.

Whitehead (075) clearly discloses in FIG. 2 a perspective top view of the hand-held sterilization device 5 that includes a housing 10, a handle 20 coupled to the housing, and a power cord 40 that may be connected to a power source. The device 5 in FIG. 2 further includes an electronic safety mechanism 50. The electronic safety mechanism 50 includes a switch lock 60 actuated by a key 65. The electronic safety mechanism 50 also includes a digital lock circuit made up of a numerical or alphabetical keypad 70 wherein a required numerical or alphabetical code is needed to

open or turn on the power to the digital lock circuit. See Column 3, line 55-61; Column 4, line 25-46; and Figure 2 below.



It is implied in Figure 2 that the use of a key 65 to access the lock 60 and thereby moving the safety switch between on and off in accordance with Whitehead (075), is equivalent to physically obstructing finger access as recited in Claims 1, 2, and 13.

It is also implied herein that inserting and turning the key 65 in the safety switch 60 in accordance with Whitehead (075), is equivalent to an activation tool adapted to engage the tool engaging portion of the safety switch, as recited in Claims 1-3, 13, and 16.

It is further implied herein that prior to inserting and turning the key 65 in the safety switch 60, a finger is physically prevented from access to the switch. Thereafter, using the finger to turn the key, which then allows finger access to the keypad switch in accordance with Whitehead (075) is equivalent to "means moved to a first position and allowing finger access to the switch when the means is moved to a second position, as recited in Claim 12.

It is still further implied that the safety switch 60 is equipped with a cover, and an opening, as well as, a plate, and a back plate in the interior body (not shown in Figure 2). As a result the use of the switch 60 for engaging the key 65 in accordance with Whitehead (075) is equivalent to the switch cover having an opening therein adapted to allow the passage of an activation tool, as recited in Claims 16-18.

Claims Rejection – 35 U.S.C. 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-8,10,11,14,15, and19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,920,075 to Whitehead, in view of Ameseder, U.S. Patent No. 5,029,252 and Mazzilli, U.S. Patent No. 5,523,057.

Whitehead (075) as applied above discloses nearly all the limitations of Claims 7,8,10,11, and 15, but does not disclose the use of a degermination chamber. However, Ameseder (252) discloses an apparatus for disinfection that includes the housing 1 provided according to FIG. 1 with a plurality of openings 3, in which the toothbrushes 4 may so be placed, that the brush heads 5 are located within the housing 1 and the handles 6 extend outside the housing 1. The UV-light source 2 is mounted according to FIG. 3 on the mounting plate 7 of the housing 1 and is connected by a wire 8 to a plug 9. See Column 3, line 51-67; and Column 4, line 1-15.

Ameseder (252) also discloses that from the depiction of the cross-section of the apparatus according to FIG. 9 it is clear that upon swinging shut the housing 1 onto the mounting plate 7 over hinge pin 38 according to FIG. 10 an enclosed disinfection chamber is formed, whereby within this disinfection chamber according to FIG. 9 the

receiving vessel 18 with the associated take-up frame 17 is arranged. The receiving aperture 39 for instruments, toothbrushes or the like is in this manner accessible from above via the openings 3 in the housing. See Column 5, line 3-23.

Therefore it would have been obvious to one of ordinary skill in the art that the germicidal lamp of Whitehead (075) can be modified to use the chamber of Ameseder (252), to provide an apparatus for the disinfection of toilette or medical instruments.

Whitehead (075) is aware that such a modification would provide a chamber for degermination of objects since it is stated that U.S. Pat. No. 5,029,252 issued to Ameseder (Jul. 2, 1991) describes an apparatus with a housing containing an ultraviolet light source and the housing has openings for instrumental devices, like toothbrushes. See Column 2, line 11-18.

Regarding claims 4-6,14, and 19-25, Ameseder (252) discloses that the instruments to be disinfected (e.g., the toothbrushes) are arranged with respect to the mounting plate and the radiation source in a consistently reproduceable manner such that the disinfection area itself is enclosed in a pivotable housing. See Column 1, line 41-47.

Ameseder (252) also discloses that the take-up frame 17 according to FIG. 9 is transparent to UV-radiation, through which an advantageous disinfection chamber is formed within the receiving vessel 18 with reflection of the radiation on the rear wall 24, whereby the closed housing 1 additionally reflects radiation, and in general through the nested arrangement of the receiving vessel 18 within the housing 1 a chamber is formed. See Column 5, line 34-41.

It is inherent in Ameseder (252) above that when the pivotable enclosure of housing 1 is closed and UV radiation is being reflected from the walls of the housing, a light shield is formed, which is equivalent to the use of a light shield, as recited in Claims 4-6, 14, and 19-25.

Whitehead (075) in view of Ameseder (252) does not disclose the use of a light shield having a plastic UV filter, as recited in claims 6, and 19-25. However, Mazzilli (057) discloses a sterilization apparatus that includes an aperture 62 provided for viewing lamp operation in each end wall with a plastic colored shield capable of filtering ultraviolet light. See Column 5, line 59-67.

Therefore it would have been obvious to one of ordinary skill in the art that the disinfection apparatus of Whitehead (075) in view of Ameseder (252) can be modified to use a UV filtering windows in accordance with Davidson (175), to provide a means for determining operation of the germicidal lamp without viewing the ultraviolet ray.

Conclusion

6. Any inquiry concerning this communication or earlier communications should be directed to Phillip Johnston whose telephone number is (571) 272-2475. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor John Lee can be reached at (571) 272-2477. The fax phone numbers are (703) 872-9318 for regular

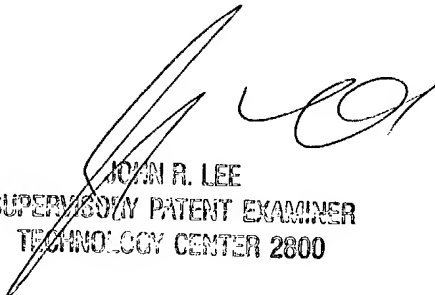
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response activity, and (703) 872-9319 for after-final responses. In addition the customer service fax number is (703) 872- 9317.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

PJ

April 16, 2004



JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800